

House Bill 3346
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 121.001(a), Utilities Code, is amended to read as follows:

(a) In this chapter, "gas utility" means a person who owns, manages, operates, leases, or controls in this state property or equipment or a pipeline, plant, facility, franchise, license, or permit for a business that:

(1) transports, conveys, distributes, or delivers natural gas:

(A) for public use or service for compensation;

(B) for sale to municipalities or persons engaged in distributing or selling natural gas to the public, in a situation described by Subdivision (3);

(C) for sale or delivery to a person operating under a franchise or contract with a political subdivision of this state; or

(D) for sale or delivery to the public for domestic or other use;

(2) owns, operates, or manages a pipeline:

(A) that is for transporting or carrying natural gas, whether for public hire or not; and

(B) for which the right-of-way has been or is hereafter acquired by exercising the right of eminent domain, or by representing to a property owner that the person has the right to acquire right-of-way by the use of eminent domain; or

(3) produces or purchases natural gas and transports or causes the transportation of natural gas by a pipeline to or near the limits of a municipality in which the gas is received and distributed or sold to the public by another

SENATE VERSION

SECTION 1. Section 121.001(a), Utilities Code, is amended to read as follows:

(a) In this chapter, "gas utility" means a person who owns, manages, operates, leases, or controls in this state property or equipment or a pipeline, plant, facility, franchise, license, or permit for a business that:

(1) transports, conveys, distributes, or delivers natural gas:

(A) for public use or service for compensation;

(B) for sale to municipalities or persons engaged in distributing or selling natural gas to the public, in a situation described by Subdivision (3);

(C) for sale or delivery to a person operating under a franchise or contract with a political subdivision of this state; or

(D) for sale or delivery to the public for domestic or other use;

(2) owns, operates, or manages a pipeline:

(A) that is for transporting or carrying natural gas, whether for public hire or not; and

(B) for which the right-of-way has been or is hereafter acquired by exercising the right of eminent domain, or by lawfully representing to a property owner that the person has the right to acquire right-of-way by the use of eminent domain; or

(3) produces or purchases natural gas and transports or causes the transportation of natural gas by a pipeline to or near the limits of a municipality in which the gas is received and distributed or sold to the public by another

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gas utility or by the municipality in a situation in which the business is the only or practically the only agency of supply of natural gas to the gas utility or municipality.

No equivalent provision.

No equivalent provision.

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gas utility or by the municipality in a situation in which the business is the only or practically the only agency of supply of natural gas to the gas utility or municipality.

SECTION 2. Section 181.021(2), Utilities Code, is amended to read as follows:

(2) "Gas utility" means a person, firm, or corporation subject to the jurisdiction of the Railroad Commission of Texas, or a municipality, engaged in the business of transporting or distributing gas [~~for public consumption~~].

SECTION __. Section 101.003(7), Utilities Code, is amended to read as follows:

(7) "Gas Utility" includes a person or river authority that owns or operates for compensation in this state equipment or facilities to transmit or distribute combustible hydrocarbon natural gas or synthetic natural gas for sale or resale in a manner not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. Section 717 et seq.). The term includes a lessee, trustee, or receiver of a gas utility. The term does not include:

- (A) a municipal corporation;
- (B) a person or river authority to the extent the person or river authority:
 - (i) produces, gathers, transports, or sells natural gas or synthetic natural gas under Section 121.004 or 121.005;
 - (ii) distributes or sells liquefied petroleum gas; or
 - (iii) transports, delivers, or sells natural gas for fuel for

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irrigation wells or any other direct agricultural use;
(C) a person to the extent the person:
(i) sells natural gas for use as vehicle fuel;
(ii) sells natural gas to a person who later sells the natural gas for use as vehicle fuel; or
(iii) owns or operates equipment or facilities to sell or transport natural gas for ultimate use as vehicle fuel;
(D) a person not otherwise a gas utility who furnishes gas or gas service only to itself, its employees, or its tenants as an incident of employment or tenancy, if the gas or gas service is not resold to or used by others; ~~or~~
(E) a person excluded from being considered a gas utility under Section 121.007; or
(F) an electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that is excluded from regulation as a gas utility by Section 121.008.

No equivalent provision.

SECTION __. Subchapter A, Chapter 121, Utilities Code, is amended by adding Section 121.008 to read as follows:

Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC COOPERATIVES EXCLUDED. An electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that sells electricity at wholesale is not a gas utility or subject to regulation as a gas utility solely because it provides gas storage services for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall

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not have a working gas capacity of greater than five billion cubic feet.

No equivalent provision.

SECTION __. Section 111.001(2), Natural Resources Code, is amended to read as follows:

(2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise. The term does not include an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and that owns or operates an underground storage facility and provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

No equivalent provision.

SECTION __. Section 111.003, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The provisions of this chapter, and any common law requirements or limitations applicable to a common carrier, do not apply to an underground storage facility owned or operated by an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and offers or

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provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet

SECTION 2. This Act takes effect September 1, 2009.

SECTION __. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.